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In the Court of Probate.

IN THE GOODS OF BERKLEY WESTROPP, DECEASED.

The testator, having in one clause of his will left all his personal property to his wife absolutely, by a subsequent clause gave her only a life interest therein. Under these circumstances a special grant was ordered to issue, which, after reciting the two clauses of the will, should authorize the widow to take administration as the party named in them.

Mr. Berkley Westropp, of Sheen, in the county of Surrey, duly executed his will, in which, after directing the payment of his debts and funeral expenses, he continued—"I give, devise and bequeath all the property whatsoever, and wheresoever situate, which I may possess at my death, to my wife, Eliza Isabella Westropp; and as to all the rest and residue of my property, I give it to my two executors, in trust to allow my wife to have the annual dividend and produce of the same during the term of her natural life, and afterwards I give and bequeath the same amongst all my children," &c.

C. M. Roupell applied to the court, under the stat. 21 Hen. 8, c. 5, s. 3, to grant administration with the will annexed to Mrs. Westropp, as widow of the deceased, the executors refusing to act.

Sir C. CRESSWELL.—Supposing the grant to issue to Mrs. Westropp as the residuary legatee for life, would her interests be affected thereby in the Court of Chancery?

C. M. Roupell thought not, but Mrs. Westropp was unwilling to any step which seemed to recognize the inferior title.

Sir C. CRESSWELL.—It has always been the practice in the Prerogative Court, in case two residuary clauses were found in a will, which were inconsistent with one another, to give effect, in granting probate, to the last disposition. The widow is not entitled to administration until the residuary legatees have been disposed of. I think the difficulty may be avoided by your taking a special grant, in which, after a recital of both clauses, administration may be committed to Mrs. Westropp as the person named in both of them.